

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

JEFFREY PAYNE,

Plaintiff,

v.

AMY PHENIX,

Defendant.

Case No. C22-5670-TL

ORDER DISMISSING ACTION

Having reviewed Plaintiff's amended complaint, the Report and Recommendation of the Honorable S. Kate Vaughan, United States Magistrate Judge (Dkt. No. 13), as well as the remaining record, and no objection or response to the Report and Recommendation having been filed, any objections thereto, the Court hereby finds and ORDERS as follows:

(1) The Report and Recommendation is APPROVED and ADOPTED, except that the dismissal of this action is without prejudice, as noted below.

(2) Plaintiff's amended complaint (Dkt. 12) and this action are DISMISSED without prejudice, pursuant to Fed. R. Civ. P. 12(h)(3), for lack of subject matter jurisdiction. *See, e.g., Missouri ex rel. Koster v. Harris*, 847 F.3d 646, 656 (9th

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1 Cir. 2017) (“In general, dismissal for lack of subject matter jurisdiction is without  
2 prejudice.”).

3 (3) The Clerk is DIRECTED to send copies of this Order to Plaintiff and to Judge  
4 Vaughan.

5 DATED this 31st day of May 2023.

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8 Tana Lin  
9 United States District Judge  
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